IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

CWP.No.168 of 2001.
CWP.No.169 of 2001.

Date of Decision :26.2.2007..

1.Ram Chand
2.Man Singh and another.

…Petitioners.

Versus:

State of H.P. and others.

…Respondents.

Coram:

The Hon'ble Mr.Justice Dev Darshan Sud, Judge.

Whether approved for reporting?[1]

For the petitioners:	Mr.Ramakant Sharma, Advocate
For Respondents No.1 &2.	Mr.Rajan Dewan, Addl.Advocate General.
For Respondents No.4 to 7.	Mr.Ajay Kumar,Advocate.

Dev Darshan Sud, J (Oral).

Both these writ petitions are being disposed of by a common judgment. The orders, which have been challenged, have been passed by the Director, Consolidation of Holding, Himachal Pradesh in Case No.41/99 (in CWP.No.168 of 2001) and Case No. 40/99 (in

---

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

CWP. No. 169 of 2001). Both these orders proceed on a common basis. The petitioners in both these writ petitions respectively had filed revision petition(s) under the provision of Section 54 of the H.P. Holdings (Consolidation and Prevention of fragmentation) Act, 1971 (hereinafter referred to as 'the Act'). The Director of Consolidation has held that the revision petition(s) as not maintainable on the ground that according to the record, the consolidation operations have been closed in the respective villages by a Notification dated 17.2.1999 issued under Section 15(1) of the Act According to him, the revision petition(s) has been instituted on 22.2.1999 and no jurisdiction vested in the Director to take cognizance of any case.

I have heard learned counsel for the parties.

The basis of the order of the Director of Consolidation that Notification dated 17.2.1999 de-notifying the process of consolidation came into operation on the date when such Notification was drafted/issued is not correct. He has ignored the fact that this Notification was published in the official gazette on 13th March, 1992 from which date it would become effective. Before this date, it cannot be assumed by the Director that the Notification has become operative on its own. Further, the assumption that Section 54 which vests revisional powers in the State Government is not correct. Section 15 of the Act does not control Section 54. Be that as it may, the factual assumptions made by the Director are incorrect and cannot

be sustained. The revision petitions were filed on 22.2.1999 on which date the Notification de-notifying/closing consolidation proceedings had not been published in the Rajpatra. In these circumstances, the impugned order (Annexure:P-2) is quashed and set aside. The Director of Consolidation is directed to decide the matter afresh after giving notice to the parties. The petition(s) should be disposed of within a period of three months from the date on which notice is served on the parties. The direction is being given keeping in view the fact that the revision petition(s) under Section 54 was instituted in February, 1999. The writ petitions are disposed of in terms of this order. There shall be no order as to costs.

(Dev Darshan Sud),
Judge

February 26, 2007(R)